

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1508
93RD GENERAL ASSEMBLY

Reported from the Committee on Economic Development, Tourism and Local Government, April 12, 2006, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

4638S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 287.020, 320.200, 320.271, 320.300, and 320.310, RSMo, and to enact in lieu thereof six new sections relating to fire departments.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 287.020, 320.200, 320.271, 320.300, and 320.310, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 287.020, 320.200, 320.271, 320.300, 320.310, and 1, to read as follows:

287.020. 1. The word "employee" as used in this chapter shall be construed to mean every person in the service of any employer, as defined in this chapter, under any contract of hire, express or implied, oral or written, or under any appointment or election, including executive officers of corporations. Any reference to any employee who has been injured shall, when the employee is dead, also include his dependents, and other persons to whom compensation may be payable. The word "employee" shall also include all minors who work for an employer, whether or not such minors are employed in violation of law, and all such minors are hereby made of full age for all purposes under, in connection with, or arising out of this chapter. The word "employee" shall not include an individual who is the owner, as defined in subsection 43 of section 301.010, RSMo, and operator of a motor vehicle which is leased or contracted with a driver to a for-hire motor carrier operating within a commercial zone as defined in section 390.020 or 390.041, RSMo, or operating under a certificate issued by the Missouri department of transportation or by the United States Department of Transportation, or any of its subagencies. **As used in this chapter, the term**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 **"employee" includes any firefighter performing the duties generally**
18 **carried out within the scope of such firefighter's employment, even**
19 **when acting off-duty and upon his or her own volition, in any**
20 **jurisdiction.**

21 2. The word "accident" as used in this chapter shall mean an unexpected
22 traumatic event or unusual strain identifiable by time and place of occurrence
23 and producing at the time objective symptoms of an injury caused by a specific
24 event during a single work shift. An injury is not compensable because work was
25 a triggering or precipitating factor.

26 3. (1) In this chapter the term "injury" is hereby defined to be an injury
27 which has arisen out of and in the course of employment. An injury by accident
28 is compensable only if the accident was the prevailing factor in causing both the
29 resulting medical condition and disability. "The prevailing factor" is defined to
30 be the primary factor, in relation to any other factor, causing both the resulting
31 medical condition and disability.

32 (2) An injury shall be deemed to arise out of and in the course of the
33 employment only if:

34 (a) It is reasonably apparent, upon consideration of all the circumstances,
35 that the accident is the prevailing factor in causing the injury; and

36 (b) It does not come from a hazard or risk unrelated to the employment
37 to which workers would have been equally exposed outside of and unrelated to the
38 employment in normal nonemployment life.

39 (3) An injury resulting directly or indirectly from idiopathic causes is not
40 compensable.

41 (4) A cardiovascular, pulmonary, respiratory, or other disease, or
42 cerebrovascular accident or myocardial infarction suffered by a worker is an
43 injury only if the accident is the prevailing factor in causing the resulting medical
44 condition.

45 (5) The terms "injury" and "personal injuries" shall mean violence to the
46 physical structure of the body and to the personal property which is used to make
47 up the physical structure of the body, such as artificial dentures, artificial limbs,
48 glass eyes, eyeglasses, and other prostheses which are placed in or on the body
49 to replace the physical structure and such disease or infection as naturally results
50 therefrom. These terms shall in no case except as specifically provided in this
51 chapter be construed to include occupational disease in any form, nor shall they
52 be construed to include any contagious or infectious disease contracted during the

53 course of the employment, nor shall they include death due to natural causes
54 occurring while the worker is at work.

55 4. "Death" when mentioned as a basis for the right to compensation means
56 only death resulting from such violence and its resultant effects occurring within
57 three hundred weeks after the accident; except that in cases of occupational
58 disease, the limitation of three hundred weeks shall not be applicable.

59 5. Injuries sustained in company-owned or subsidized automobiles in
60 accidents that occur while traveling from the employee's home to the employer's
61 principal place of business or from the employer's principal place of business to
62 the employee's home are not compensable. The extension of premises doctrine is
63 abrogated to the extent it extends liability for accidents that occur on property
64 not owned or controlled by the employer even if the accident occurs on customary,
65 approved, permitted, usual or accepted routes used by the employee to get to and
66 from their place of employment.

67 6. The term "total disability" as used in this chapter shall mean inability
68 to return to any employment and not merely mean inability to return to the
69 employment in which the employee was engaged at the time of the accident.

70 7. As used in this chapter and all acts amendatory thereof, the term
71 "commission" shall hereafter be construed as meaning and referring exclusively
72 to the labor and industrial relations commission of Missouri, and the term
73 "director" shall hereafter be construed as meaning the director of the department
74 of insurance of the state of Missouri or such agency of government as shall
75 exercise the powers and duties now conferred and imposed upon the department
76 of insurance of the state of Missouri.

77 8. The term "division" as used in this chapter means the division of
78 workers' compensation of the department of labor and industrial relations of the
79 state of Missouri.

80 9. For the purposes of this chapter, the term "minor" means a person who
81 has not attained the age of eighteen years; except that, for the purpose of
82 computing the compensation provided for in this chapter, the provisions of section
83 287.250 shall control.

84 10. In applying the provisions of this chapter, it is the intent of the
85 legislature to reject and abrogate earlier case law interpretations on the meaning
86 of or definition of "accident", "occupational disease", "arising out of", and "in the
87 course of the employment" to include, but not be limited to, holdings in: *Bennett*
88 *v. Columbia Health Care and Rehabilitation*, 80 S.W.3d 524 (Mo.App. W.D. 2002);

89 Kasl v. Bristol Care, Inc., 984 S.W.2d 852 (Mo.banc 1999); and Drewes v. TWA,
90 984 S.W.2d 512 (Mo.banc 1999) and all cases citing, interpreting, applying, or
91 following those cases.

320.200. As used in sections 320.200 to [320.270] **320.271**, unless the
2 context requires otherwise, the following terms mean:

3 (1) "Division", the division of fire safety created in section 320.202;

4 (2) "Dwelling unit", one or more rooms arranged for the use of one or more
5 individuals living together as a single housekeeping unit, with cooking, living,
6 sanitary, and sleeping facilities;

7 (3) **"Fire department", an agency or organization that provides**
8 **fire suppression and related activities, including but not limited to:**
9 **fire prevention, rescue, emergency medical services, hazardous**
10 **material response, or special operation to a population within a fixed**
11 **and legally recorded geographical area. The term "fire department"**
12 **shall include any municipal fire department or any fire protection**
13 **district as defined in section 321.010, RSMo, or voluntary fire**
14 **protection association as defined in section 320.300, engaging in this**
15 **type of activity;**

16 (4) "Fire loss", loss of or damage to property, or the loss of life or of
17 personal injury, by fire, lightning, or explosion;

18 [(4)] (5) "Investigator", the supervising investigators and investigators
19 appointed under sections 320.200 to 320.270;

20 [(5)] (6) "Owner", any person who owns, occupies, or has charge of any
21 property;

22 [(6)] (7) "Privately occupied dwelling", a building occupied exclusively for
23 residential purposes and having not more than two dwelling units;

24 [(7)] (8) "Property", property of all types, both real and personal, movable
25 and immovable;

26 [(8)] (9) "State fire marshal", the state fire marshal selected under the
27 provisions of sections 320.200 to 320.270.

320.271. All fire protection districts, fire departments, and all volunteer
2 fire protection associations as defined in section 320.300 shall **complete and** file
3 with the state fire marshal within sixty days after [August 13, 1988] **January**
4 **1, 2007**, and annually thereafter, [the name and address of the fire protection
5 district, fire department, or volunteer fire protection association] **a fire**
6 **department registration form provided by the state fire marshal. The**

7 state fire marshal may issue a fire department identification number
8 to each registered fire protection district, fire department, and
9 volunteer fire protection association based upon such registration. The
10 state fire marshal may conduct periodic reviews of information
11 contained on the fire department registration form.

320.300. As used in sections 320.300 to 320.310, the phrase "volunteer fire
2 protection association" means any fire department which is staffed by volunteers
3 and organized for the purpose of combating fires in a specified area. The
4 provisions of sections 320.300 to 320.310 shall apply only to volunteer fire
5 protection associations **that provide fire suppression and related activities,**
6 **including but not limited to: fire prevention, rescue, emergency**
7 **medical services, hazardous material response, or special operation to**
8 **a population within a fixed and legally recorded geographical area;**
9 either partially or wholly funded by membership or subscriber fees and shall not
10 apply to fire protection districts supported by local tax revenues, or which have
11 contracted with a political subdivision to respond to fires within the area of an
12 association's boundaries.

320.310. All volunteer fire protection associations [may] **shall** identify the
2 association's boundaries and file the same with the county administrative body,
3 **such boundaries shall not encroach upon nor include any portion of**
4 **another fire department's legally established boundaries.**

Section 1. After January 1, 2007, in any county with a charter
2 **form of government and with more than one million inhabitants, the**
3 **creation of a fire protection district under chapter 321, RSMo, shall**
4 **require the authorization of all adjacent fire protection districts then**
5 **existing. The authorization shall be evidenced by a resolution adopted**
6 **by the boards of the adjacent fire protection districts.**

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